

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK, *et al.*,

Plaintiffs

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (CKK)

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Roy A. Day's "Motion to Testify at the March 4, 2002, 'States' Trial Date for the Microsoft Action Pertaining to the 'States' Actions." Although Mr. Day's motion bears the caption of both Civil Action Nos. 98-1232 and 98-1233, based upon the substance of the motion, the Court construes this motion as a motion to offer testimony at the remedy hearings in *State of New York v. Microsoft*, No. 98-1233 (D.D.C.), scheduled to commence on March 11, 2002. As the parties in the above-captioned case will be presenting all of their own evidence and the Court will not be calling its own witnesses, the Court sees no reason to grant Mr. Day's motion to testify.<sup>1</sup> Accordingly, the Court will deny Mr. Day's motion to testify.

Based on the foregoing, it is this 7th day of March, 2002, hereby

---

<sup>1</sup>In so concluding, the Court does not mean to imply that there exists a valid legal basis for the non-party filing of a "motion to testify."

**ORDERED** that Mr. Day's motion to testify is DENIED.

**SO ORDERED.**

---

COLLEEN KOLLAR-KOTELLY  
United States District Judge